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September 27, 2021

The Honorable Brian Martinotti
Judge, U.S. District Court for the District of New Jersey
Clarkson S. Fisher Federal Building & U.S. Courthouse
Room 341
402 E. State Street
Trenton, New Jersey 08608

Re: Penn East Pipeline Company, LLC Cases
See Exhibit "A" attached hereto

Dear Judge Martinotti:

This firm represents numerous private property owners, governmental entities and non-profit organizations (the "Stark & Stark Property Owners") in the various condemnation actions filed by PennEast Pipeline Company, LLC ("PennEast").¹ Certain Stark & Stark Property Owners have a fee simple interest in the subject real estate, other clients hold easements and other real property rights. Stark & Stark files this letter brief in lieu of a more formal brief objecting to PennEast's attempt to dismiss the condemnation action by filing a Notice of Voluntary Dismissal under Fed. R. Civ. P. 71.1(i)(1)(A) or filing a Stipulation of Dismissal only signed by the State of New Jersey. The Stark & Stark Property Owners believe the proper procedure is for PennEast to file a motion and obtain a Court Order under Fed. R. Civ. P. 71.1(i)(1)(C). The Stark & Stark Property Owners request a case management conference (via

¹ Consistent with procedures used in this case, we will file this letter brief in each case where Stark & Stark appeared for a defendant. The list of cases, subject to final verification, is attached hereto as Exhibit "A".

telephone) to discuss these procedural differences and to schedule a briefing and discovery schedule.

Rule 71.1(i) of the Federal Rules of Civil Procedure states (emphasis added):

(i) Dismissal of the Action or a Defendant.

(1) *Dismissing the Action.*

(A) *By the Plaintiff.* If no compensation hearing on a piece of property has begun, and **if the plaintiff has not acquired title or a lesser interest or taken possession**, the plaintiff may, without a court order, dismiss the action as to that property by **filing a notice** of dismissal briefly describing the property.

(B) *By Stipulation.* Before a judgment is entered vesting the plaintiff with title or a lesser interest in or possession of property, the plaintiff and affected defendants may, without a court order, dismiss the action in whole or in part by filing a stipulation of dismissal. And if the parties so stipulate, the court may vacate a judgment already entered.

(C) *By Court Order.* At any time before compensation has been determined and paid, the court may, after a motion and hearing, dismiss the action as to a piece of property. **But if the plaintiff has already taken title, a lesser interest, or possession as to any part of it, the court must award compensation for the title, lesser interest, or possession taken.**

In the Voluntary Notice of Dismissal filed by PennEast, PennEast makes the unverified allegation that “Plaintiff has not yet acquired title or a lesser interest or taken possession”. In the cases where PennEast has settled with the State of New Jersey, the parties acknowledge “PennEast obtained the right to access and **has conducted various surveys** required by FERC but has not yet begun constructing the Project” and “PennEast has not acquired title, **exclusive possession** or any lesser property interest other than the access rights described in the recitals above . . .” (emphasis added). The Stark & Stark Property Owners believe that the Order granting

PennEast the preliminary injunction and the Court’s written decision make it clear that PennEast has in fact “acquired a lesser interest” in the subject property and was granted and utilized possessory rights. In addition, PennEast did in fact enter upon numerous properties to conduct surveys, wetland work, archeological testing and test borings using large drilling equipment.

A. Court Order.

The Court entered an Order for Condemnation and Granting Preliminary Injunction in each case which grants the exact same relief, using identical orders, with the captioned being different and the property descriptions being different. However, the substantive parts of the Orders are the same. In the preamble, the Court confirms that PennEast is seeking a preliminary injunction “granting PennEast immediate access to and possession of the rights of way” defined in the Verified Complaint. In the “Ordered” portion of the Order, the Court held that “upon PennEast’s proof of appropriate security, PennEast is authorized to immediately enter and take possession of the Rights of Way and Workspace easements for all purposes allowed under the FERC Order” (emphasis added).

In the written opinion issued by this Court, the Court stated that “PennEast’s application for orders of condemnation and for preliminary injunctive relief allowing immediate possession of the Rights of Way in advance of any award of just compensation is **GRANTED.**” (Decision, at 49). In discussing the bond requirement, the Court cited the *Sage* decision and quoted a section that is relevant to this issue:

[I]f the gas company’s deposit (or bond) is less than the final compensation awarded, and the company fails to pay the difference within a reasonable time, “it will become a trespasser, and liable to be proceeded against as such.” *Cherokee Nation*, 135 U.S. at 660. Likewise, if a FERC-regulated gas company was somehow permitted to ***abandon a pipeline project*** (and possession) in the midst of a condemnation proceeding, ***the company would be liable to the landowner for the time***

it occupied the land and for any “damages resulting to the [land] and to fixtures and improvements, or for the cost of restoration.” 4 J. Sackman, Nichols on Eminent Domain 12E.01 [07] (rev.3d ed).

Sage, 361 F.3d at 825-26 (emphasis added).

The *Sage* court expressly acknowledged that property owners are entitled to compensation for any occupancy by a pipeline company, plus damages, especially when the pipeline is abandoned.

In a case that is relevant to the issues before this Court involving the Constitution Pipeline, the United States District Court for the Northern District of New York found, under similar circumstances, that “There is no dispute that Plaintiff has taken a lesser interest in the Defendant’s properties as well as temporary possession of the rights of way. Accordingly, the Court must award compensation before dismissing the case.” *Constitution Pipeline Co. v. 3.62 Acres & Temp. Easements for 3.08 Acres in Middleburgh*, No. 1:14-CV-2000, et. al., 2020 WL 5666646 (N.D.N.Y. Sept. 17, 2020)(attached hereto as Exhibit “B”). In *Constitution*, a pipeline company decided to abandon a pipeline project after filing a condemnation action and obtaining a preliminary injunction similar to the one granted by this Court. To accomplish this goal and to reduce its exposure to claims for just compensation, the pipeline company sought to vacate the preliminary injunction (which was granted) and amend its complaint to limit the taking to temporary possession of the rights of way. The Court denied the motion to amend the complaint and held that “Plaintiff’s concerns about clarifying the scope and duration of the taking that occurred are better addressed through evidence and argument at trial on compensation.”

Relevant to this case is the Court’s finding that:

Pursuant to Rule 71.1, the Defendant landowners are entitled to compensation for the time their properties were condemned for the

Pipeline Project, *a period from the date of the Preliminary Injunction, February 21, 2015, until the date of this Order.*

Constitution, at 4 (emphasis added).

There is no doubt that the Order entered by this Court granted PennEast a lesser interest in the Defendants' real property and granted possessory rights.

B. PennEast Used The Possessory Rights it Was Granted.

There are many properties caught up in the various cases, each one with its own set of facts and damage claim which is why the dismissal of the case must be done on a case-by-case basis, after discovery and a commissioners' hearing. PennEast utilized the property rights granted under the Order, if on just a temporary basis, entitling property owners to just compensation. By way of example,²

1. Borings on Property With Heavy Equipment. PennEast entered numerous private properties in order to *bore holes in the ground using heavy equipment.* A description of the equipment use for the borings is attached hereto as Exhibit C. Borings were done on private property including property owned by Ms. Patricelli (Exh. D), Mr. and Mrs. Markus (Exh. E), Mr. Bulger (Exh. F) and Mr. and Mrs. Buchanan (Exh. G). Mr. Buchanan's tractor was actually damaged by debris left behind after the drilling (Exh. H). PennEast also entered upon public property owned by Hopewell Township and did very intrusive and evasive drilling, again using large equipment (Exh. I).³

² This list of properties is not exhaustive but set forth to show the Court why there is a need for discovery and time.

³ Each exhibit has an email notice and map showing location of the borings.

2. Archeological digs. PennEast, using smaller equipment (hand augers and shovels) also conducted archaeological surveys. One example is the test pits dug on land owned by the Hunterdon Land Trust (Exh. J). Other property owners experienced other type of archeological testing. (Exh. K).
3. Wetland surveys, archeological surveys, wetland surveys and geotechnical drilling surveys. Attached hereto are emails providing notice to many, many property owners about various types of surveys and testing to be done on their properties:
 - i. Archaeological and wetland surveys (Exh. L);
 - ii. Wetland and geotechnical drilling (Exh. M);
 - iii. Wetland and environmental surveys (Exh. N); and
 - iv. Civil engineering surveys (Exh. O).

It is truly untenable for PennEast to take the position it has not obtained a lesser interest in the properties to possessory rights. If PennEast did not acquire such rights, it trespassed on each property.

C. Property Owners Are Entitled to Legal Fees.

Rule 71.1(i)(1)(C) allows the Defendants to recoup all of their expenses, including attorney's fees, as specified under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4654. *See Transcontinental Gas Pipeline Co. v. A Permanent Easement for 0.018 Acres*, Nos. 09-1385, 09-1396, and 09-1402, 2010 WL 3282954, at *2-3 (E.D. Pa. 2010) (“*Transco*”).

D. The Court Should Enter a Briefing Schedule and Case Management Order.

We request that the Court schedule a call with counsel to discuss the objections and set a briefing schedule for these issues. In addition, the Stark & Stark Property Owners request a schedule which includes the following:

1. Deadline for PennEast to file a motion seeking a Court order to dismiss the cases under Rule 71.1(i)(1)(C).
2. Deadline for PennEast to obtain new appraisals setting for the value of the temporary rights taken by PennEast.
3. Discovery schedule so property owners can obtain details on what was done on each property.
4. Schedule for hearings to be completed by the Commissioners to determine just compensation.

Respectfully submitted,

STARK & STARK
A Professional Corporation

By: /s/ Timothy P. Duggan
TIMOTHY P. DUGGAN, ESQ.
MARSHALL T. KIZNER, ESQ.

EXHIBIT A

EXHIBIT "A"

STARK STARK CLIENT LIST BY CASE

	A	C	D
1	Name (Last Name or Entity)	Case#	
2	Briede	3:18-cv- 01585	
3	Briehler	3:18-cv- 01588	
4	Caparoso	3:18-cv- 01590	
5	Hopewell Township	3:18-cv- 01597	
6	Hopewell Township	3:18-cv- 01603	
7	Dodds	3:18-cv- 01609	
8	Francescone	3:18-cv- 01613	
9	Hunterdon Land Trust	3:18-cv- 01638	
10	Kasya LLC	3:18-cv- 01641	
11	Kilmer	3:18-cv- 01643	
12	West Amwell Twp	3:18-cv- 01643	
13	Hoff	3:18-cv- 01646	
14	Hunterdon County	3:18-cv- 01648	
15	Nejman	3:18-cv- 01658	
16	Pandy	3:18-cv- 01660	
17	Rothenberg	3:18-cv- 01662	
18	Hunterdon County	3:18-cv- 01668	
19	Hunterdon County	3:18-cv- 01669	
20	LaFevre	3:18-cv- 01670	
21	Hunterdon County	3:18-cv- 01672	
22	Hunterdon County	3:18-cv- 01673	
23	Nanni	3:18-cv- 01673	
24	Hopewell Township	3:18-cv- 01684	
25	Wen	3:18-cv- 01684	
26	Hunterdon County	3:18-cv- 01689	
27	Patricelli	3:18-cv- 01694	
28	Bernet	3:18-cv- 01695	
29	Buchanan	3:18-cv- 01697	
30	Bulger	3:18-cv- 01699	
31	NJ Conservation	3:18-cv- 01699	
32	Delaware Township	3:18-cv- 01701	
33	Hunterdon County	3:18-cv- 01701	
34	DiBianca	3:18-cv- 01706	
35	Hunterdon County	3:18-cv- 01709	
36	Fleischman	3:18-cv- 01715	
37	Hunterdon County	3:18-cv- 01721	
38	Delaware Township	3:18-cv- 01722	
39	Hunterdon County	3:18-cv- 01722	
40	Horchos	3:18-cv- 01726	
41	Johnson	3:18-cv- 01729	
42	Kelly	3:18-cv- 01731	
43	Hunterdon County	3:18-cv- 01743	
44	Mazzei	3:18-cv- 01745	
45	Hunterdon County	3:18-cv- 01748	

EXHIBIT "A"

STARK STARK CLIENT LIST BY CASE

	A	C	D
46	McAdam	3:18-cv- 01748	
47	Muench	3:18-cv- 01750	
48	Hopewell Township	3:18-cv- 01754	
49	Delaware Township	3:18-cv- 01756	
50	NJ Conservation	3:18-cv- 01756	
51	Patterson	3:18-cv- 01757	
52	Seggerman	3:18-cv- 01759	
53	Shafer	3:18-cv- 01763	
54	Silkotch	3:18-cv- 01765	
55	Hunterdon County	3:18-cv- 01771	
56	Delaware Township	3:18-cv- 01773	
57	Hopewell Township	3:18-cv- 01774	
58	Varhley	3:18-cv- 01776	
59	D&R Greenway Trust	3:18-cv- 01778	
60	Welsh	3:18-cv- 01778	
61	Hunterdon County	3:18-cv- 01779	
62	Delaware Township	3:18-cv- 01798	
63	Hunterdon County	3:18-cv- 01798	
64	Hunterdon County	3:18-cv- 01801	
65	Cekoric	3:18-cv- 01802	
66	Hunterdon County	3:18-cv- 01809	
67	Hunterdon County	3:18-cv- 01816	
68	Loglisci	3:18-cv- 01816	
69	West Amwell Twp	3:18-cv- 01816	
70	Mountford	3:18-cv- 01822	
71	Hunterdon County	3:18-cv- 01832	
72	West Amwell Twp	3:18-cv- 01832	
73	Straub	3:18-cv- 01838	
74	Hopewell Township	3:18-cv- 01845	
75	Delaware Township	3:18-cv- 01846	
76	Tucci	3:18-cv- 01846	
77	Delaware Township	3:18-cv- 01851	
78	Jones	3:18-cv- 01851	
79	NJ Conservation	3:18-cv- 01851	
80	Delaware Township	3:18-cv- 01853	
81	Hunterdon Land Trust	3:18-cv- 01855	
82	Hunterdon County	3:18-cv- 01859	
83	Hunterdon County	3:18-cv- 01863	
84	Lopshire	3:18-cv- 01866	
85	Magill	3:18-cv- 01868	
86	West Amwell Twp	3:18-cv- 01868	
87	Hunterdon County	3:18-cv- 01874	
88	Hunterdon County	3:18-cv- 01896	
89	Delaware Township	3:18-cv- 01897	
90	Hoffman	3:18-cv- 01897	
91	Hunterdon County	3:18-cv- 01905	

EXHIBIT "A"
STARK STARK CLIENT LIST BY CASE

	A	C	D
92	Pepperman	3:18-cv- 01909	
93	West Amwell Twp	3:18-cv- 01915	
94	Salata	3:18-cv- 01918	
95	Hunterdon County	3:18-cv- 01924	
96	Delaware Township	3:18-cv- 01934	
97	Switzler	3:18-cv- 01934	
98	Hopewell Township	3:18-cv- 01937	
99	Hunterdon County	3:18-cv- 01942	
100	West Amwell Twp	3:18-cv- 01942	
101	Hopewell Township	3:18-cv- 01951	
102	Hunterdon County	3:18-cv- 01973	
103	Friends Hopewell Valley	3:18-cv- 01974	
104	Hopewell Township	3:18-cv- 01974	
105	Kager	3:18-cv- 01983	
106	DeGrado	3:18-cv- 01986	
107	DePaul	3:18-cv- 01989	
108	Delaware Township	3:18-cv- 01990	
109	Hunterdon County	3:18-cv- 01990	
110	Hunterdon County	3:18-cv- 01995	
111	Hunterdon County	3:18-cv- 01996	
112	Bydalek	3:18-cv- 01997	
113	Hastings/Leap	3:18-cv- 01998	
114	Kager	3:18-cv- 01999	
115	Kager	3:18-cv- 02000	
116	Hunterdon County	3:18-cv- 02001	
117	Kappus	3:18-cv- 02001	
118	Alexandria Twp	3:18-cv- 02003	
119	Hunterdon County	3:18-cv- 02003	
120	Hunterdon County	3:18-cv- 02004	
121	Kursinski	3:18-cv- 02004	
122	Hunterdon County	3:18-cv- 02014	
123	Marcus	3:18-cv- 02015	
124	Hunterdon County	3:18-cv- 02016	
125	Santoro	3:18-cv- 02016	
126	Hunterdon County	3:18-cv- 02020	
127	Woodside View Estates	3:18-cv- 02025	
128	Ponter	3:18-cv- 02031	
129	Lamson	3:18-cv- 02033	
130	Kriegler	3:18-cv- 02139	

EXHIBIT B

Cases 1:14-CV-2000, et al
UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

Constitution Pipeline Co. v. 3.62 Acres & Temp. Easements for 3.08 Acres in Middleburgh

Decided Sep 17, 2020

Cases 1:14-CV-2000, et al.

09-17-2020

Constitution Pipeline Company, LLC, Plaintiff, v.
A Permanent Easement for 3.62 Acres and
Temporary Easements for 3.08 Acres in
Middleburgh, Schoharie County, New York Tax
Parcel Number 81.-4-13, et al., Defendants.

Norman A. Mordue, Senior U.S. District Judge

(Case Nos. at Exhibit A) (NAM/DJS)

Norman A. Mordue, Senior U.S. District Judge
:

MEMORANDUM-DECISION & ORDER

I. INTRODUCTION

Now before the Court is Plaintiff's Omnibus Motion under Federal Rule of Civil Procedure 60(b)(6) to dissolve an injunction previously granted in this case which permitted Plaintiff possession of right of ways on Defendants' properties for a now-defunct pipeline. (Dkt. No. 26). In addition, Plaintiff proposes to: 1) amend the complaint to clarify the duration and scope of the rights of way; 2) maintain the security bond posted for the injunction until such time as the claims in the complaint are resolved by settlement or trial; and 3) record this Order in the land records of the county of the Defendants' properties. (*Id.*). Plaintiff originally identified 65 cases subject to this request, but after settlement and stipulations of dismissal, approximately 39 cases remain. (*See* Exhibit A). Although Plaintiff's

motion is unopposed in most of these cases, several Defendants have filed a cross-motion to dismiss the complaint, which is also addressed herein. *2

II. BACKGROUND

Plaintiff commenced this action in 2014 by seeking condemnation of the Defendants' properties pursuant to Rule 71.1 of the Federal Rules of Civil Procedure, in order to secure rights of way for a proposed natural gas pipeline (the "Pipeline Project"). (Dkt. No. 1). On February 21, 2015, the Court granted Plaintiff's motions for partial summary judgment and a preliminary injunction, thereby giving Plaintiff a permanent right of way and easement on the Defendants' properties for the purpose of constructing, operating, and maintaining a pipeline for the transportation of natural gas, as well as temporary easements for use during pipeline construction and maintenance. (Dkt. Nos. 16, 17, 20). Plaintiff also posted bonds as security for the payment of just compensation to Defendants. (*Id.*). Ultimately, Plaintiff's parent company decided not to proceed with the Pipeline Project, which is now permanently cancelled. (*See* Dkt. No. 24). Therefore, the Court granted Plaintiff's request to re-open all the cases related to the Pipeline Project for the purpose of dissolving the injunctions and compensating the Defendants. (Dkt. No. 25).

III. DISCUSSION

A. Plaintiff's Motion

Plaintiff argues that the injunctions should be dissolved pursuant to Rule 60(b)(6), the catchall provision that permits the court to relieve a party from a final judgment or order for "any other reason that justifies relief." (Dkt. No. 26-5, p. 5). Since the Pipeline Project was cancelled, Plaintiff seeks to "relinquish possession of the Rights of Way to the Landowners, and proceed to the determination of compensation due for the time it had such possession." (*Id.*). Thus, in each of the remaining cases, Plaintiff proposes to vacate the Order that granted its earlier motion for a preliminary injunction. Plaintiff also seeks to amend the complaint "to *3 reflect that it does not seek any permanent easements on the Property, and only seeks possession of the Rights of Way temporarily for the period of time from the date of taking . . . to the date of dissolution of the injunction." (*Id.*, p. 5).

B. Defendants' Responses

In most of the remaining cases, Plaintiff's motions are unopposed. For example, the Defendants in Case No. 14-cv-2000 state that, because Plaintiff has abandoned the Pipeline Project and preserved the security bonds for the affected properties, they have no objection to the relief sought. (Dkt. No. 27). In others, Defendants have consented to dissolution of the injunctions, retention of bonds, and recording the related orders.¹ However, several Defendants have filed opposing papers and cross-moved for dismissal of the complaint.² In these cases, Defendants argue that: 1) the Orders granting Plaintiff partial summary judgment and a preliminary injunction are now void and should be vacated; 2) Plaintiff's motion under Rule 60(b) should be denied because it is not seeking relief from a final judgment or order; 3) Plaintiff should not be permitted to amend the complaint; and 4) the complaint should be dismissed pursuant to Rule 71.1. (*See, e.g.*, Dkt No. 28-3 in Case No. 14-cv-2118).

¹ *See* Case Nos. 14-cv-2023, 14-cv-2027, 14-cv-2047, 14-cv-2048, 14-cv-2050, 14-cv-2093.

² *See* Case Nos. 14-cv-2054, 14-cv-2057, 14-cv-2004, 14-cv-2008, 14-cv-2031, 14-cv-2036, 14-cv-2039, 14-cv-2045, 14-cv-2049, 14-cv-2059, 14-cv-2069, 14-cv-2071, 14-cv-2080, 14-cv-2083, 14-cv-2118.

C. Dissolving the Injunctions

There is no dispute that the injunctions should be dissolved. Rather, the Court's task is to decide the proper mechanism to do so, with an eye towards a swift and equitable resolution. First, the Court recognizes that by its plain language Rule 60(b) only provides for relief from a *final* judgment or order, Fed. R. Civ. P. 60(b), while the preliminary injunction in this case is interlocutory in nature. Some courts have nonetheless interpreted Rule 60(b) to extend to *4 modifications of preliminary injunctions. *See, e.g., Halo Optical Products, Inc. v. Liberty Sport, Inc.*, No. 14-CV-282, 2017 WL 4011261, at *3, 2017 U.S. Dist. LEXIS 146472, at *8 (N.D.N.Y. Sept. 11, 2017). However, Rule 60(b) need not be applied in this case because the preliminary injunction can be dissolved through the Court's power of equity. As the Second Circuit has observed, "[w]hile changes in fact or in law afford the clearest bases for altering an injunction, the power of equity has repeatedly been recognized as extending also to cases where a better appreciation of the facts in light of experience indicates that the decree is not properly adapted to accomplishing its purposes." *King-Seeley Thermos Co. v. Aladdin Industries, Inc.*, 418 F.2d 31, 35 (2d Cir. 1969); *see also* 42 AM. JUR. 2D INJUNCTIONS § 284 ("Generally, a court exercises the same power over its injunctive orders which it, as a court of equity, exercises over its other orders or decrees. Thus, a court of equitable jurisdiction has the intrinsic or inherent power to dissolve, vacate, or modify its injunctions.").

Under equitable principles, a preliminary injunction can be modified or dissolved if "the moving party demonstrates that a material change in circumstances justifies its alteration." *Int'l Equity Invs., Inc. v. Opportunity Equity Partners, Ltd.*, 427 F. Supp. 2d 491, 501 (S.D.N.Y. 2006); *see also* 42 AM. JUR. 2D INJUNCTIONS § 288 ("Generally, a court may modify or dissolve an injunction, whether permanent or preliminary . . . based upon changed circumstances."). Here, Plaintiff has shown that the Pipeline Project—the object of the preliminary injunction—has been cancelled. Specifically, on April 13, 2020, Plaintiff notified the New York State Department of Environmental Conservation of its decision to withdraw its pending applications for permits for the Pipeline Project. (*See* Dkt. No. 26-5, p. 3). Plaintiff states that it no longer needs possession of the rights of way for further survey or construction because the project will not be moving forward. (*Id.*, p. 4). *5

Based on this change of circumstances, the rights of way granted by the preliminary injunction no longer serve a public purpose for a natural gas pipeline. Accordingly, the Court hereby orders the preliminary injunction dissolved. The related Orders, (Dkt. Nos. 16, 17, 20), shall be vacated. Further, Plaintiff shall: 1) maintain the security bond posted for the injunction until such time as the claims in this case are resolved; and 2) record this Order in the land records of the county in which the now-extinguished rights of way were located. This Order applies equally to all the cases identified in Exhibit A.

D. Further Proceedings

Pursuant to Rule 71.1, the Defendant landowners are entitled to compensation for the time their properties were condemned for the Pipeline Project, a period from the date of the Preliminary Injunction, February 21, 2015, until the date of this Order. In general, the Court tries all issues including compensation. Fed. R. Civ. P. 71.1(h) (1). Plaintiff argues that before proceeding to

compensation, it is necessary to amend the complaint "to reflect that it does not seek any permanent easements on the Property, and only seeks possession of the Rights of Way temporarily for the period of time from the date of taking . . . to the date of dissolution of the injunction." (Dkt. No. 26-5, p. 5).

In response, several Defendants argue that Plaintiff "has no right to dissolve the Preliminary Injunction and then amend the complaint so it can claim it had the right to possess property in order to perform surveys." (*See* Dkt. No. 28-3, p. 17 in Case No. 14-cv-2118). Defendants add that: "Constitution was only granted the right to condemn (and possess) the Defendants' property in order to construct the pipeline. That right cannot be altered retroactively." (*Id.*). Instead, these Defendants seek dismissal of the complaint. (*Id.*, p. 15). Plaintiff counters that it has the right to amend the complaint, and that doing so would conform *6 the complaint to the taking which occurred and for which the landowners must be compensated. (*See* Dkt. No. 30, pp. 11-12, in Case No. 14-cv-2118).

The motion to dismiss the complaint must be denied. Pursuant to Rule 71.1(i)(C), dismissal by Court Order is permitted: "at any time before compensation has been determined and paid [b]ut if the plaintiff has already taken title, a lesser interest, or possession as to any part of it, the court must award compensation for the title, lesser interest, or possession taken." Fed. R. Civ. P. 71.1(i)(C). There is no dispute that Plaintiff has taken a lesser interest in the Defendants' properties as well as temporary possession of the rights of way. Accordingly, the Court must award compensation before dismissing the complaint.

Plaintiff's request to amend the complaint is also denied. Although Rule 71.1(f) states that the plaintiff may amend "as often as it wants" at any time before the trial on compensation, that provision contemplates an active condemnation. Here, it makes little sense to amend the complaint

Constitution Pipeline Co. v. 3.62 Acres & Temp. Easeme... Cases 1:14-CV-2000, et al (N.D.N.Y. Sep. 17, 2020)

because the animating purpose for it—the Pipeline Project—is dead and gone. Whereas the original complaint sought the substantive right to condemn Defendants' properties for a permanent right of way and easement, the proposed Amended Complaint seeks to "redefine the nature of the taking to a temporary taking" and asks the Court to determine the amount of compensation owed to Defendants for that taking. (Dkt. No. 30-1). However, Plaintiff's concerns about clarifying the scope and duration of the taking that occurred are better addressed through evidence and argument at trial on compensation, which is the only issue left in this case. Moreover, amending the complaint would require the Defendant landowners to answer, invite motion practice, and further delay this drawn-out case. Under the circumstances, the most equitable solution is to proceed directly to trial on the issue of compensation.³ *7

³ Relatedly, the Court declines to decide at this juncture the applicability of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which goes to the issue of compensation. --

IV. CONCLUSION

Wherefore, it is hereby

ORDERED Plaintiff's Omnibus Motion to Dissolve the Injunction (Dkt. No. 26) is **GRANTED in part and DENIED in part**; and it is further

ORDERED that the Preliminary Injunction for the Pipeline Project is hereby **DISSOLVED** in this case, and in all those identified in Exhibit A; and it is further

ORDERED that the Related Orders granting Partial Summary Judgment and the Preliminary Injunction (Dkt. Nos. 16, 17, 20) are hereby **VACATED** in this case, and in all those identified in Exhibit A; and it is further

ORDERED that Plaintiff shall maintain the security bond (*see* Dkt. No. 19) for the condemnation of Defendants' properties until such time as the claims in this case are resolved, which applies equally to all cases identified in Exhibit A; and it is further

ORDERED that Plaintiff shall record this Order in the land records of the county in which the now-extinguished rights of way were located, for this case and all those identified in Exhibit A; and it is further

ORDERED that Plaintiff's request to amend the complaint is **DENIED**; and it is further

ORDERED that Defendants' cross-motion to dismiss the complaint (applicable to Case Nos. 14-cv-2054, 14-cv-2057, 14-cv-2004, 14-cv-2008, 14-cv-2031, 14-cv-2036, 14-cv-2039, 14-cv-2045, 14-cv-2049, 14-cv-2059, 14-cv-2069, 14-cv-2071, 14-cv-2080, 14-cv-2083, 14-cv-2118) is **DENIED**; and it is further

ORDERED that all remaining cases related to the Pipeline Project shall proceed to trial on the issue of compensation; and it is further *8

ORDERED that the Clerk of the Court shall file a copy of this Order in all of the cases identified in Exhibit A; and it is further

ORDERED that the Clerk of the Court shall serve a copy of this Order on all the parties to this action.

IT IS SO ORDERED.

Date: September 17, 2020

Syracuse, New York

/s/ _____

Norman A. Mordue

Senior U.S. District Judge *9

EXHIBIT A

Constitution Pipeline Co. v. 3.62 Acres & Temp. Easeme... Cases 1:14-CV-2000, et al (N.D.N.Y. Sep. 17, 2020)

Docket Numbers

1:14-cv-02000	3:14-cv-02015	1:14-cv-02003	1:14-cv-02065	3:14-cv-02045	1:14-cv-02066
3:14-cv-02019	1:14-cv-02007	3:14-cv-02020	3:14-cv-02049	1:14-cv-02103	3:14-cv-02059
1:14-cv-02016	3:14-cv-02030	1:14-cv-02023	1:14-cv-02104	3:14-cv-02069	1:14-cv-02105
3:14-cv-02031	1:14-cv-02054	3:14-cv-02034	3:14-cv-02071	1:14-cv-02110	3:14-cv-02080
1:14-cv-02055	3:14-cv-02036	1:14-cv-02057	1:14-cv-02112	3:14-cv-02083	1:14-cv-02119
3:14-cv-02039	1:14-cv-02061	3:14-cv-02043	3:14-cv-02088	3:14-cv-02004	3:14-cv-02093
			3:14-cv-02008	3:14-cv-02118	3:14-cv-02013



casetext

EXHIBIT C

M
M
MOTT
MACDONALD

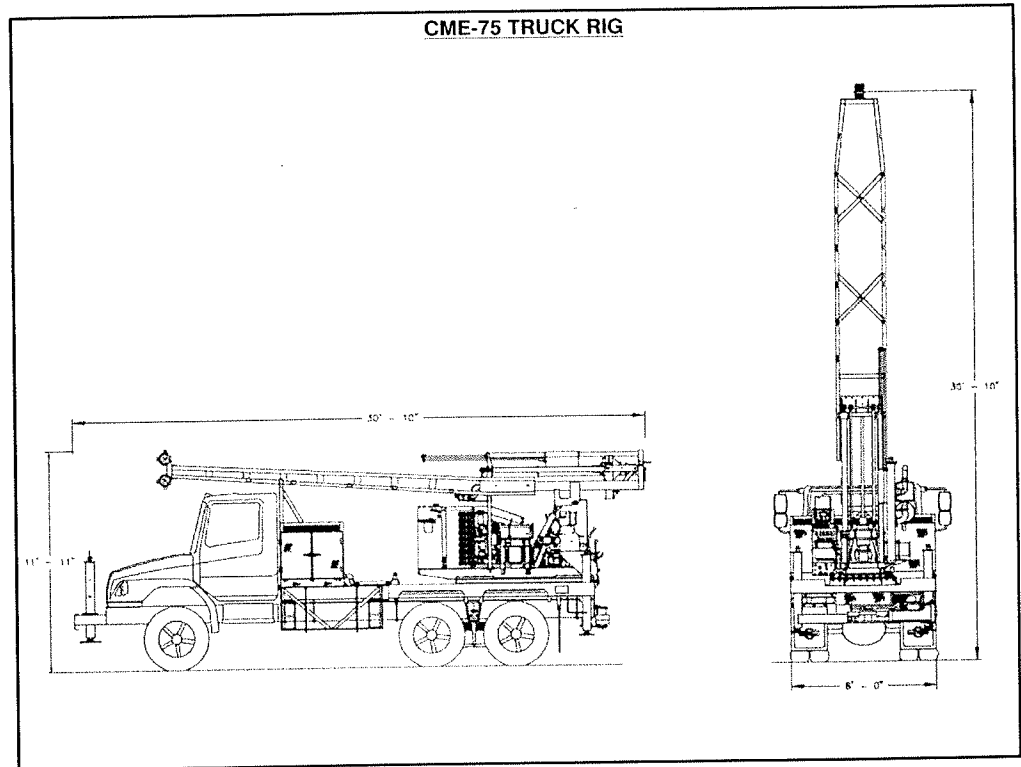


Figure 1 – CME-75 Truck Rig Soil Sampling Equipment

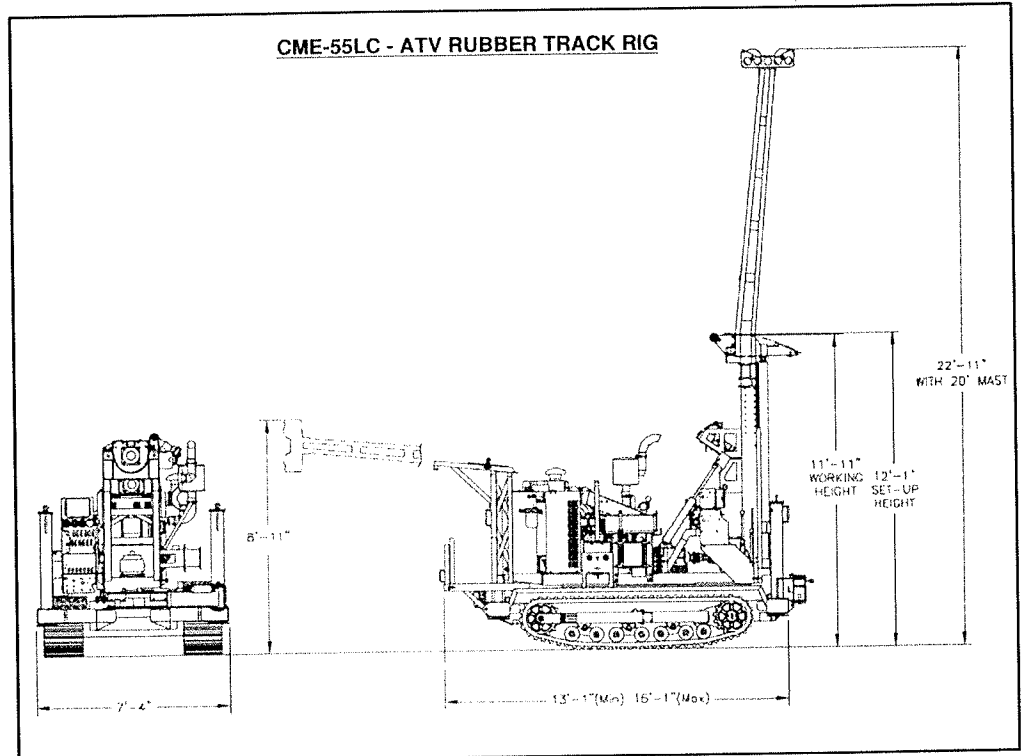


Figure 2 – CME-55 Rubber Track Soil Sampling Equipment

EXHIBIT D

Timothy P. Duggan

From: Philip Bishop <philip.bishop@westernls.com>
Sent: Tuesday, March 5, 2019 12:47 PM
To: Timothy Duggan
Cc: Bryn Michaels (michaelsb@ugicorp.com); jgraziano@archerlaw.com; Jonathan Nye; PennEast Land
Subject: RE: PennEast Pipeline - Geotech access - Patricelli - 1106-62-2.02
Attachments: CME-55LC - ATV Rubber Track Rig.pdf; GeoTechnical_Bore_B-JBJCT-2.pdf

Attorney Duggan,

The wetlands map for the Patricelli parcel is attached along with the specs for the drill rig that would be used. We have postponed this work for the time being but I will update you once it has been rescheduled. Please let me know if you need anything further. Thank you.

Phil Bishop, RPL

Staff Landman

Cell (940).372.3851

Local (570).996.0442

Fax (570).996.2088

From: Timothy Duggan [mailto:tduggan@stark-stark.com]
Sent: Tuesday, February 26, 2019 2:35 PM
To: Philip Bishop <philip.bishop@westernls.com>
Cc: Bryn Michaels (michaelsb@ugicorp.com) <michaelsb@ugicorp.com>; Dan Murphy <Dan.Murphy@westernls.com>; jgraziano@archerlaw.com; Jonathan Nye <jonathan.nye@westernls.com>; PennEast Land <penneastland@ugies.com>
Subject: RE: PennEast Pipeline - Geotech access - Patricelli - 1106-62-2.02

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Phil,

Can you send me any wetlands map and which machine you will be using? Thanks

Tim

STARK & STARK

ATTORNEYS AT LAW

NEW JERSEY PENNSYLVANIA
NEW YORK



Timothy P. Duggan, Esq.
Shareholder

993 Lenox Drive
Lawrenceville, NJ 08648

T: 609.895.7353

F: 609.895.7395

Assistant: Debbie Siegmann

E-mail: tduggan@stark-stark.com

www.Stark-Stark.com

From: Philip Bishop <philip.bishop@westernls.com>

Sent: Tuesday, February 26, 2019 1:46 PM

To: Timothy Duggan <tduggan@stark-stark.com>

Cc: Bryn Michaels (<michaelsb@ugicorp.com> <michaelsb@ugicorp.com>); Dan Murphy <Dan.Murphy@westernls.com>; jgraziano@archerlaw.com; Jonathan Nye <jonathan.nye@westernls.com>; PennEast Land <penneastland@ugies.com>

Subject: PennEast Pipeline - Geotech access - Patricelli - 1106-62-2.02

Attorney Duggan,

PennEast has scheduled a geotech bore on the Patricelli property for next Wednesday, 3/6. This is only a 50' bore so the crew should be able to complete the work in one day. The equipment would be unloaded along the road and tracked in across the field staying within the LOD. I've attached a map showing the bore location and access path, please let me know if you have any questions. Thank you.

Phil Bishop, RPL
Staff Landman



WESTERN LAND SERVICES

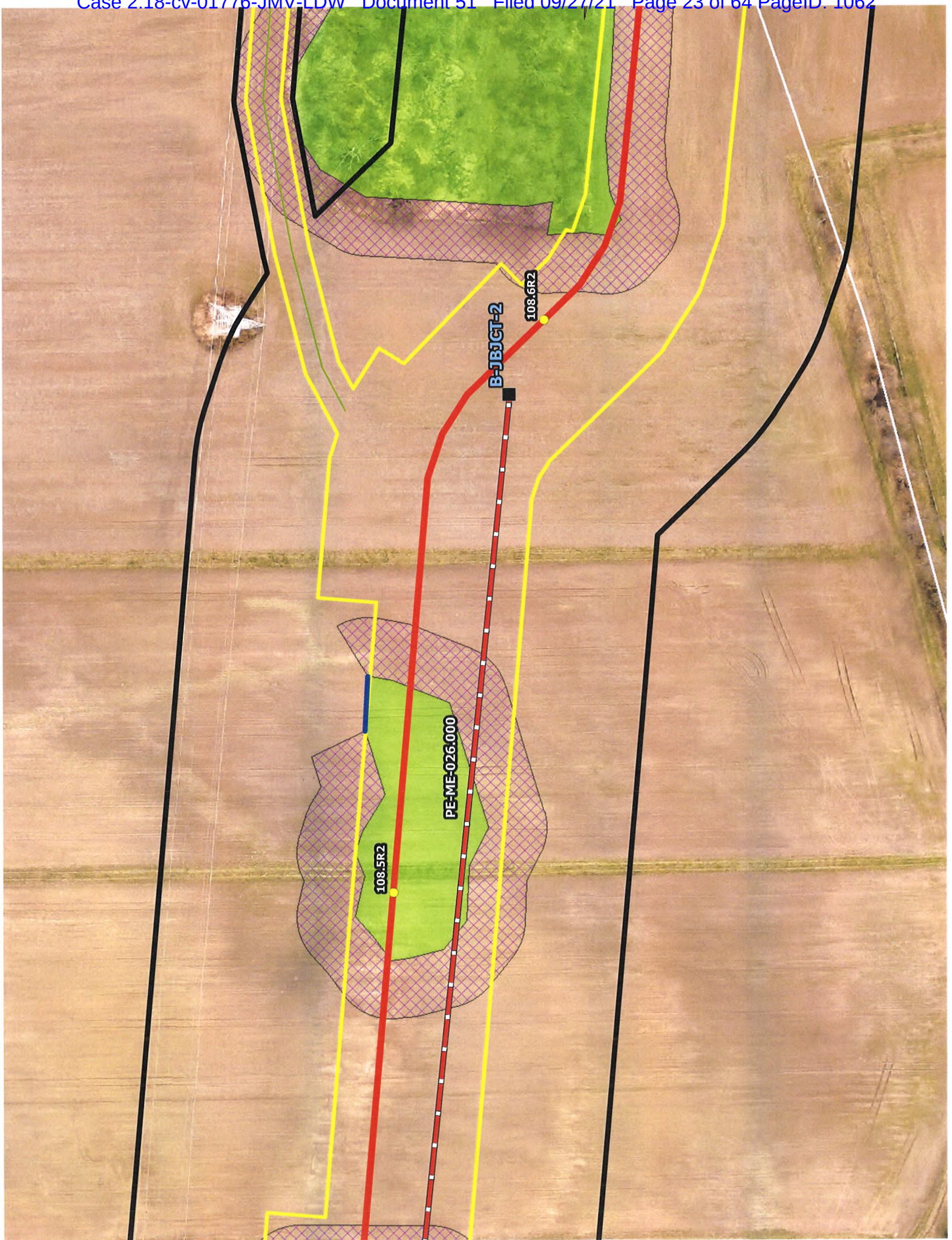
55 West Street
Tunkhannock, PA 18657

Local: (570) 996.0442
Cell: (940) 372.3851
Fax: (570) 996.2088



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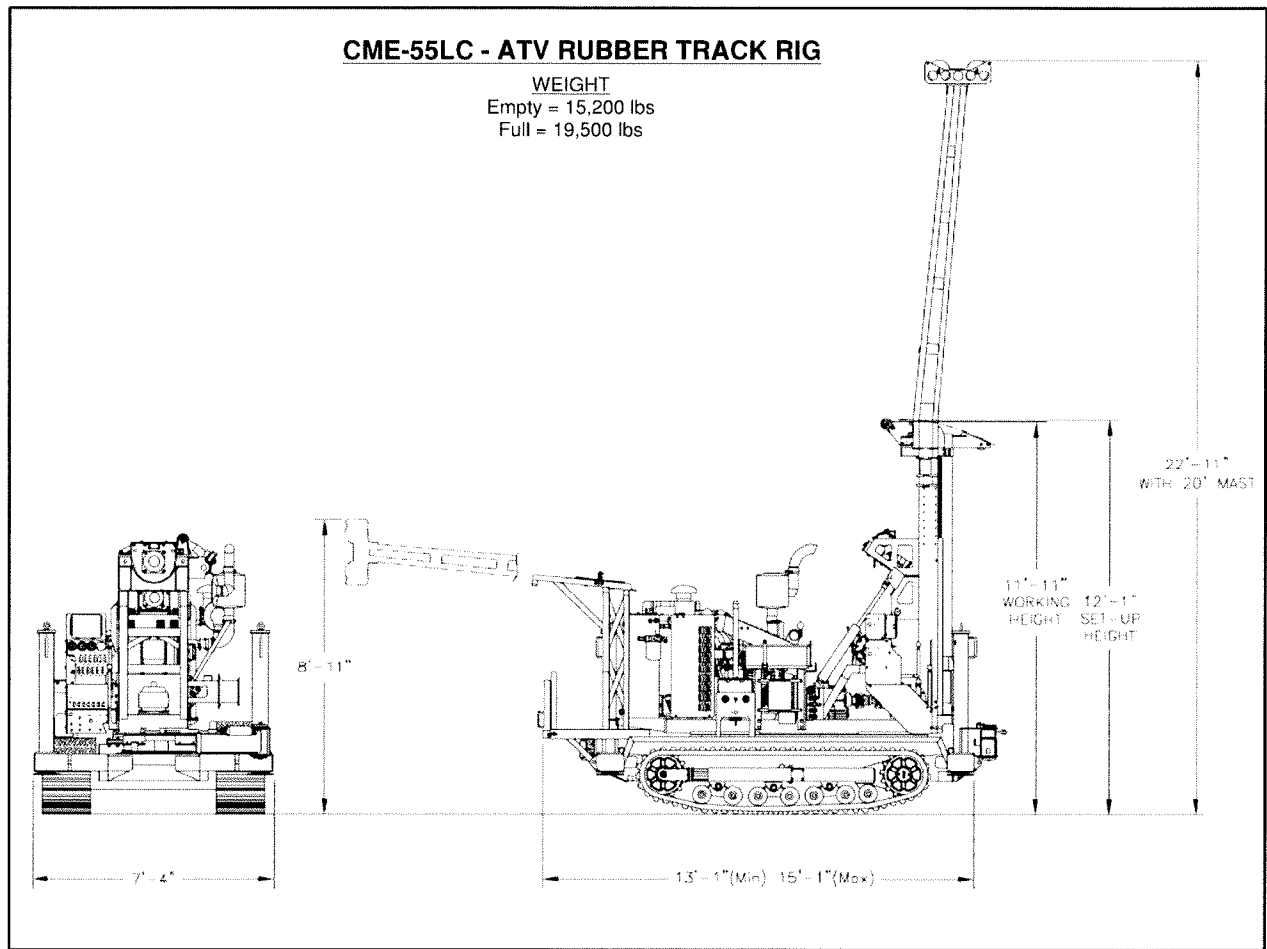


Figure 1 – CME-55LC Soil Sampling Equipment

EXHIBIT E

Timothy P. Duggan

From: Philip Bishop <philip.bishop@westernls.com>
Sent: Wednesday, February 27, 2019 9:45 AM
To: Timothy Duggan
Cc: Bryn Michaels (michaelsb@ugicorp.com); Dan Murphy; jgraziano@archerlaw.com; Jonathan Nye; PennEast Land
Subject: RE: PennEast Pipeline - Markus - Core sample drilling
Attachments: Markus - Alternate core sample location.pdf; CME-55LC - ATV Rubber Track Rig.pdf

Attorney Duggan,

As you are aware, due to the wetland areas within the LOD and the septic system on the Markus parcel PennEast has been looking for an alternate location to perform the core sample drilling necessary for the design of the HDD in the Featherbed Lane area. The attached map shows a possible alternate location on another parcel also owned by Mr. and Mrs. Markus to the east of the alignment. The bore would be performed with the same type of rubber track rig being used on our current bores (specs are also attached) and would take 5 days to complete. Please let me know if Mr. and Mrs. Markus would consider this alternative location. If you need any further information please let me know. Thank you.

Phil Bishop, RPL

Staff Landman

Cell (940).372.3851

Local (570).996.0442

Fax (570).996.2088

From: Philip Bishop
Sent: Monday, February 25, 2019 10:21 AM
To: 'Timothy Duggan' <tduggan@stark-stark.com>
Cc: Bryn Michaels (michaelsb@ugicorp.com) <michaelsb@ugicorp.com>; Dan Murphy <Dan.Murphy@westernls.com>; jgraziano@archerlaw.com; Jonathan Nye <jonathan.nye@westernls.com>; PennEast Land <penneastland@ugies.com>
Subject: RE: PennEast Pipeline - Markus - Core sample drilling

Attorney Duggan,

PennEast is still evaluating possible bore locations in that area and we will update you once a suitable location has been identified. I did forward the plans for the septic system to our engineers and we will avoid that area however. If you need anything else please let me know, thank you.

Phil Bishop, RPL

Staff Landman

Cell (940).372.3851

Local (570).996.0442

Fax (570).996.2088

From: Timothy Duggan [<mailto:tduggan@stark-stark.com>]
Sent: Saturday, February 23, 2019 2:48 PM
To: Philip Bishop <philip.bishop@westernls.com>
Cc: Bryn Michaels (michaelsb@ugicorp.com) <michaelsb@ugicorp.com>; Dan Murphy <Dan.Murphy@westernls.com>;

Markus

Alternate Core Sample Location



Google Earth

© 2018 Google

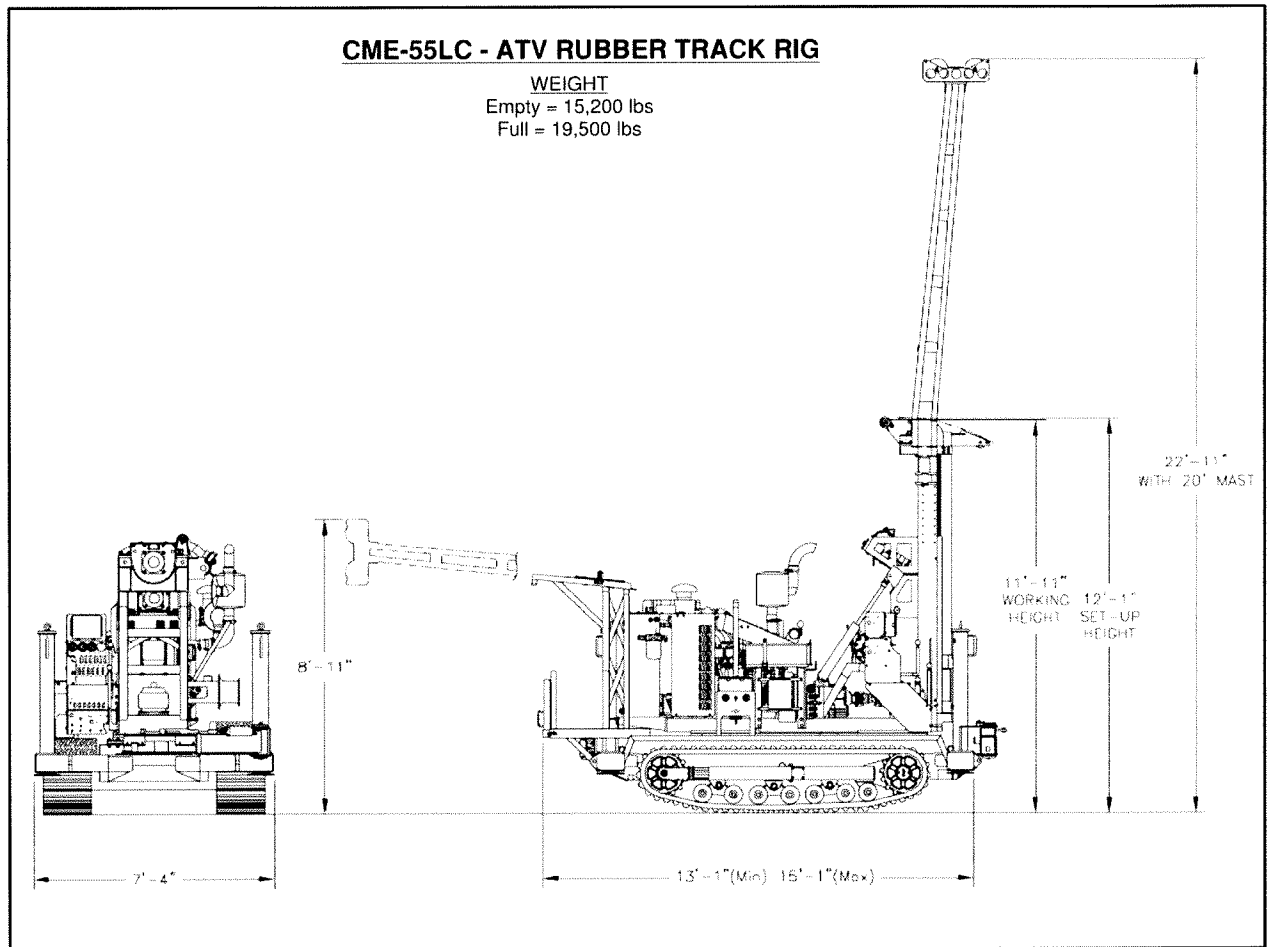


Figure 1 – CME-55LC Soil Sampling Equipment

EXHIBIT F

Timothy P. Duggan

From: Philip Bishop <philip.bishop@westernls.com>
Sent: Tuesday, March 12, 2019 11:57 AM
To: Timothy Duggan
Cc: Bryn Michaels (michaelsb@ugicorp.com); jgraziano@archerlaw.com; Jonathan Nye; PennEast Land
Subject: PennEast Pipeline - Core sample bore - Bulger
Attachments: Bulger - Core sample location.pdf

Attorney Duggan,

PennEast has two geotech core sample locations identified on the Bulger parcel. The attached map shows the locations as well as possible access paths to reach them. Entering onto the ROW off of Rosemont Ringoes Road could be problematic considering the bank along the road so please let me know if the path noted in blue would be acceptable or if there is another path that Mr. Bulger would be willing to consider. The geotech crew would like to conduct a brief walkthrough this Thursday to look at the bore locations and possible access paths. Please let me know if you have any questions or need any further information. Thank you.

Phil Bishop, RPL
Staff Landman



WESTERN LAND SERVICES

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Fax: (570) 996.2088



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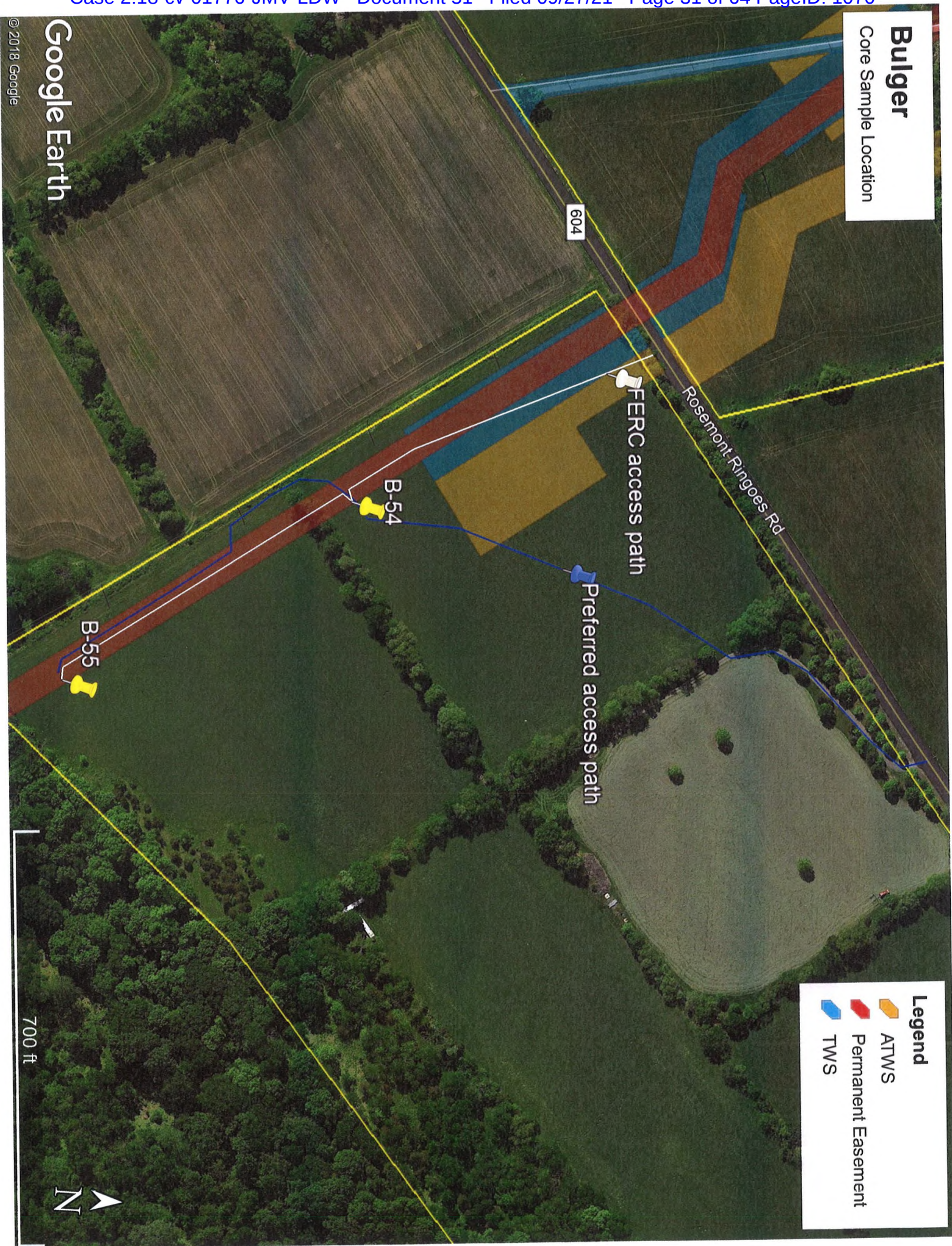


EXHIBIT G

Timothy P. Duggan

From: Philip Bishop <philip.bishop@westernls.com>
Sent: Wednesday, February 27, 2019 3:28 PM
To: Timothy Duggan
Cc: Bryn Michaels (michaelsb@ugicorp.com); Dan Murphy; jgraziano@archerlaw.com; Jonathan Nye; PennEast Land
Subject: RE: Borings
Attachments: Buchanan - Core Sample Locations.pdf

Attorney Duggan,

The map for the Buchanan parcel is attached, please let me know if you need anything else. Thank you.

Phil Bishop, RPL

Staff Landman

Cell (940).372.3851

Local (570).996.0442

Fax (570).996.2088

From: Timothy Duggan [mailto:tduggan@stark-stark.com]
Sent: Wednesday, February 27, 2019 3:03 PM
To: Philip Bishop <philip.bishop@westernls.com>
Cc: jgraziano@archerlaw.com
Subject: Borings

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Phil,

I believe TC Buchanan received a call and a copy of a map for her borings. Do have maps for new boring sites?

Tim

STARK & STARK

ATTORNEYS AT LAW

[NEW JERSEY PENNSYLVANIA](#)
[NEW YORK](#)



Timothy P. Duggan, Esq.
Shareholder

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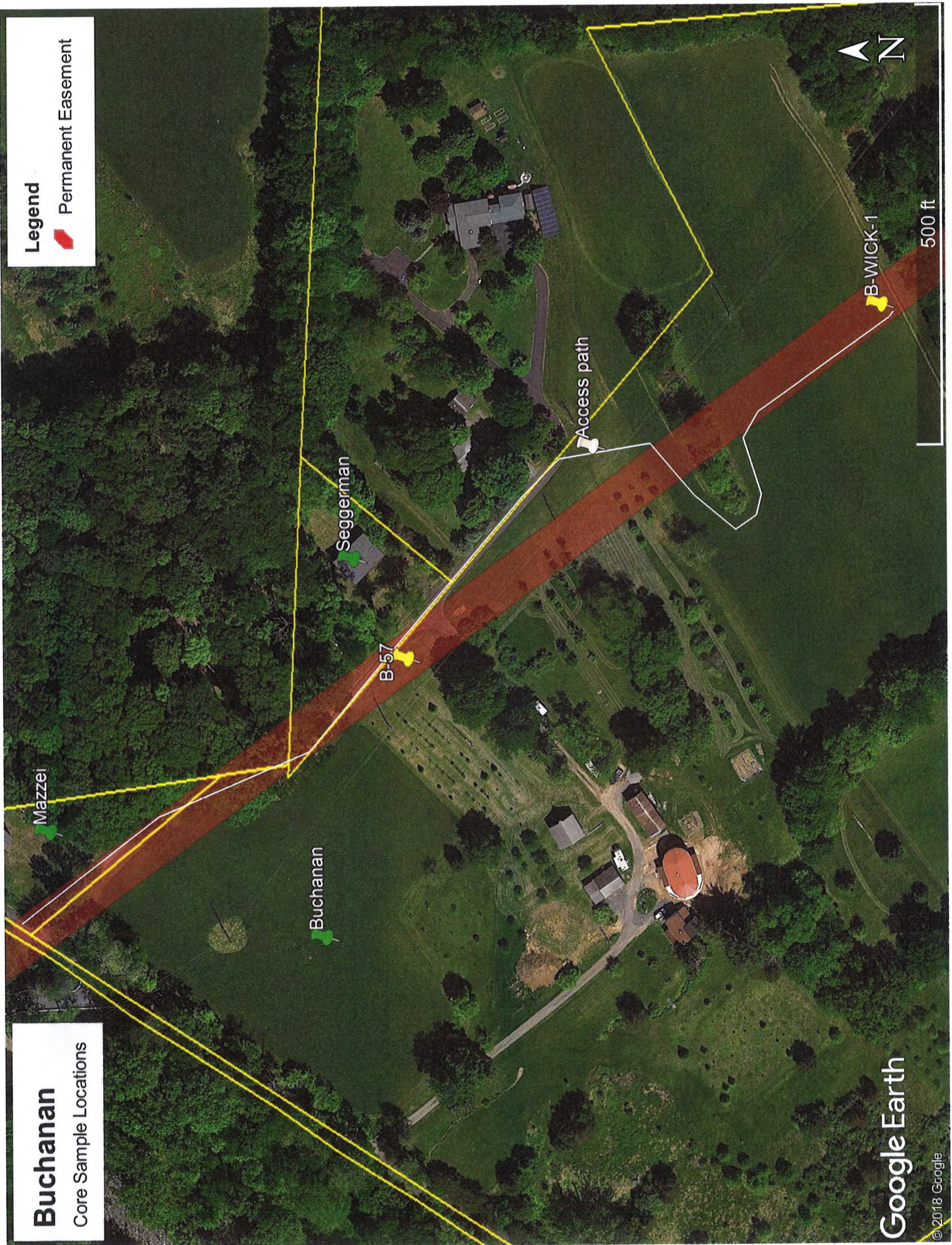


EXHIBIT H

Timothy P. Duggan

From: Timothy P. Duggan
Sent: Thursday, August 1, 2019 6:59 AM
To: jgraziano@archerlaw.com
Subject: PennEast

Jim,

On the Buchanan property, it appears that the contractor used a cement plug for the boring hole which cause damage to a tractor. My client leases the property to a farmer. The farmer's name is Charles (Skip) Opdyke of Bale-Out Inc. The operator at the time was Skip's brother, Eric. The date of incident was Thursday, July 25, 2019. My client took a photo of the hole (see below) and saved a sample of the materiel that broke off. The mower was a New Holland Discbine, model H7230. The only visible damage was a few broken teeth. Most of the damage was interior, but he is still in the process of making repairs. So far it cost him about \$1,600.

We will get you a final invoice for the repairs. Can you confirm that PennEast's contract are using cement plugs to cover boring holes? What else do you need from us?



EXHIBIT I



Hopewell Township Public Works
203 Washington Crossing Pennington Road
Titusville, NJ 08560

Geotechnical Soil Sampling – Paved Access Path Use Request

February 4, 2019

Respected Township Officials:

111 Wood Avenue South
Iselin NJ 08830-4112
United States of America

T +1 (800) 832 3272
F +1 (973) 376 1072
mottmac.com

Mott MacDonald has been retained by UGIES for the PennEast Pipeline to perform remaining field surveys and gather geologic data to evaluate the feasibility of a trenchless crossing underneath Hopewell Township's Public Works property and Washington Crossing Pennington Road. PennEast is planning to complete three soil borings (named "B-WP-1", "B-45" and "B-46") which are within the FERC certificated corridor, and which are accessible through the Township's property. Attachment 1 has been provided to identify the location of the proposed investigation locations.

PennEast is planning to access the investigation locations by using the certificated right-of-way; however, we recognize that this location of access will require significant tracking along grassed areas. To minimize the potential for rutting of the existing ground surface and disturbance to daily operations of the Public Works on the property, we are respectfully requesting to use the existing driveway and paved access paths to access the planned investigation locations.

To assist in completing the field investigations, Mott MacDonald has retained a soil sampling subcontractor, Craig Test Boring, Inc. (CTB), who will be mobilizing two types of soil sampling rigs. For boring B-45, CTB will be using a truck-mounted soil sampling rig. The details of this rig are provided as Figure 1. For borings B-WP-1 and B-46, CTB will be using a track-mounted soil sampling rig, the details of which are provided as Figure 2. CTB will be also bringing a water truck which is used to store potable water which will be required to complete sampling and will be on-site during working hours.

If alternate access is granted, for boring B-45, CTB will enter the driveway off Washington Crossing Pennington Road to borehole location. CTB will set up "work ahead" signs and traffic cones near the borehole location. The work area will be set up on the side of the existing driveway/path near boring B-45 to allow local traffic to flow through. The water truck will be parked near the borehole. It is anticipated that it will take up to 5 days to complete boring B-45.

For borings B-WP-1 and B-46, CTB will bring a flatbed truck to bring the track-mounted soil sampling rig to the property. The truck will enter the property using the existing driveway/path to unload the rig, and then be taken off-site until the end of the borehole. Upon completion of the borehole, the flatbed truck will return to re-load and take the rig off-site. The water truck will be parked on paved/gravel road near the



borehole where water will be pumped from the water truck. To limit disturbance of grassed areas by the sampling rig, matting and/or plywood will be laid down prior to mobilization of the sampling rig onto the property. It is anticipated that it will take up to 6 days to complete both borings.

During the soil sampling, housekeeping measures such as a silt fence will be installed around all sides of the sampling rig to prevent any mud or soil cuttings during sampling from inadvertently transporting across the site (see Figure 3). The on-site geotechnical engineer will walk the site area at the end of each day to document site conditions and record that no disruption to the property has occurred. Once the geotechnical boring is completed, the borehole will be backfilled and sealed using cement bentonite grout and capped with topsoil. Upon completion of the boring, the boring location and access path will be restored to its previous condition with non-germinating hay and grass seed.

During soil sampling, the soil cuttings and water from the boreholes will be stored in 55-gallon drums and disposed off site as non-hazardous material after completion of borehole. Prior to soil sampling, CTB will obtain the required New Jersey Department of Environmental Protection (NJDEP) well permit and request a One-Call utilities mark-out for the boring locations.

Thank you for your review and consideration of this request. Should you have any questions, would like additional information, or would like to discuss further, please feel free to contact me at any time.

Very truly yours,

Mott MacDonald

A handwritten signature in black ink, appearing to read 'Thileepan Rajah', with a stylized flourish at the end.

Thileepan Rajah, EIT
Project Manager
T 973 912 3466
Thileepan.Rajah@mottmac.com

A handwritten signature in purple ink, appearing to read 'Vatsal A. Shah', with a stylized flourish at the end.

Vatsal A. Shah, PE, Ph.D
Senior Associate / Senior Project Engineer
T 973 912 7517
Vatsal.Shah@mottmac.com

Encl.

Attachment 1 – Boring Location Plan

Figure 1 – CME-75 Truck Rig Soil Sampling Equipment

Figure 2 – CME-55 Rubber Track Soil Sampling Equipment

Figure 3 – Example Drill Rig Set Up

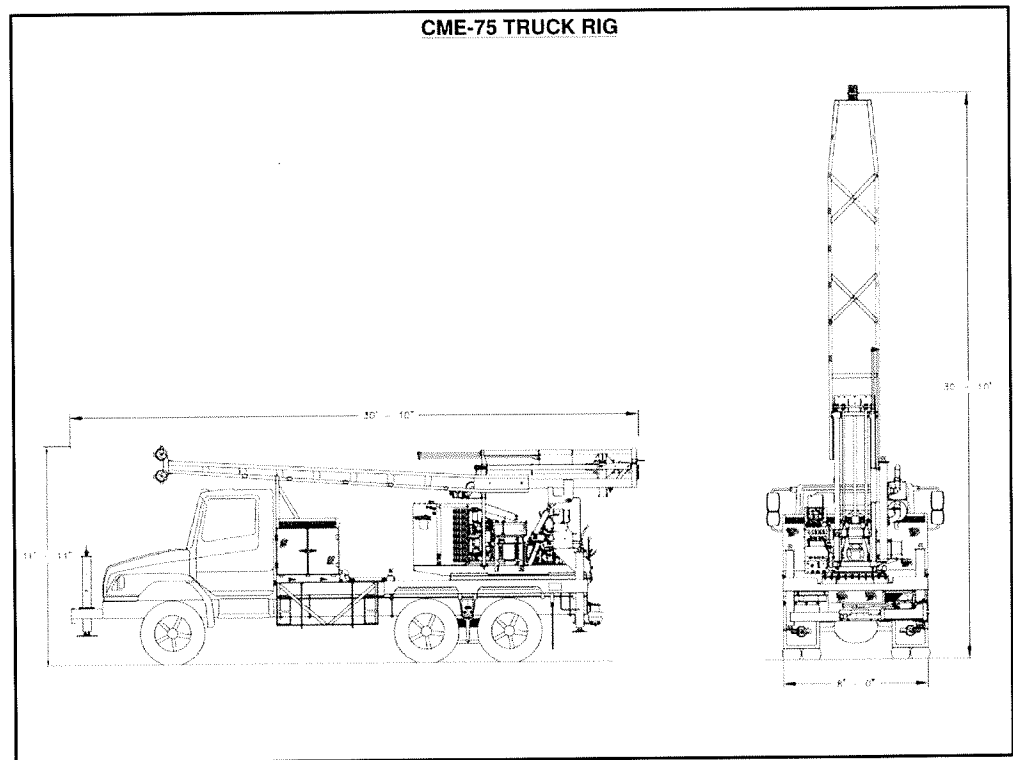


Figure 1 – CME-75 Truck Rig Soil Sampling Equipment

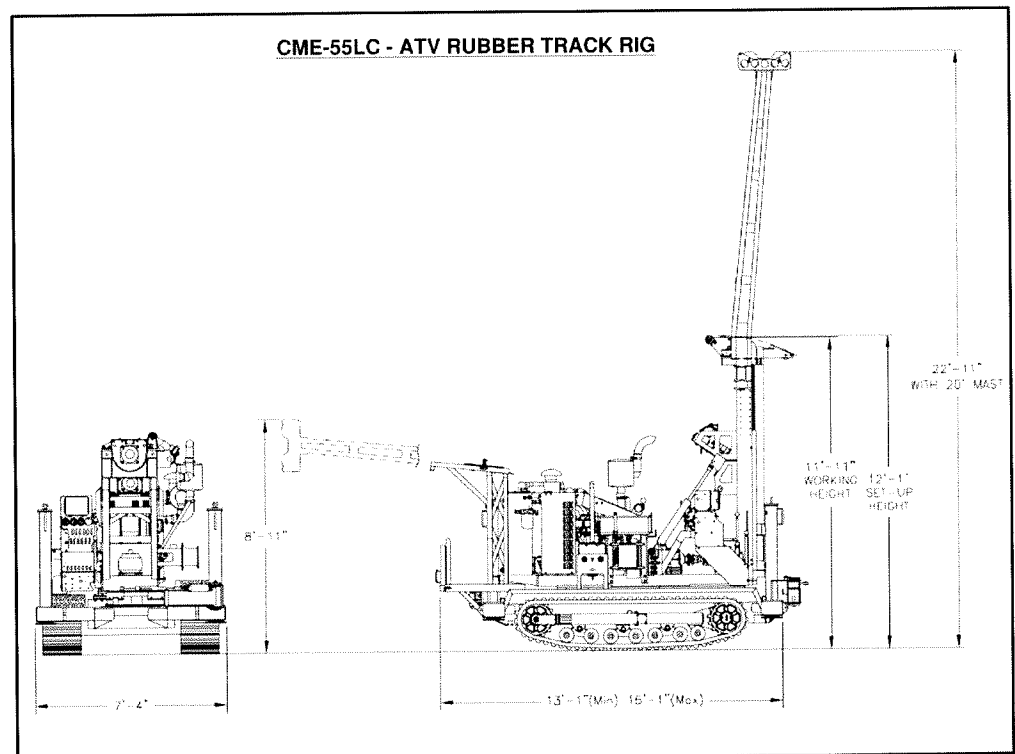


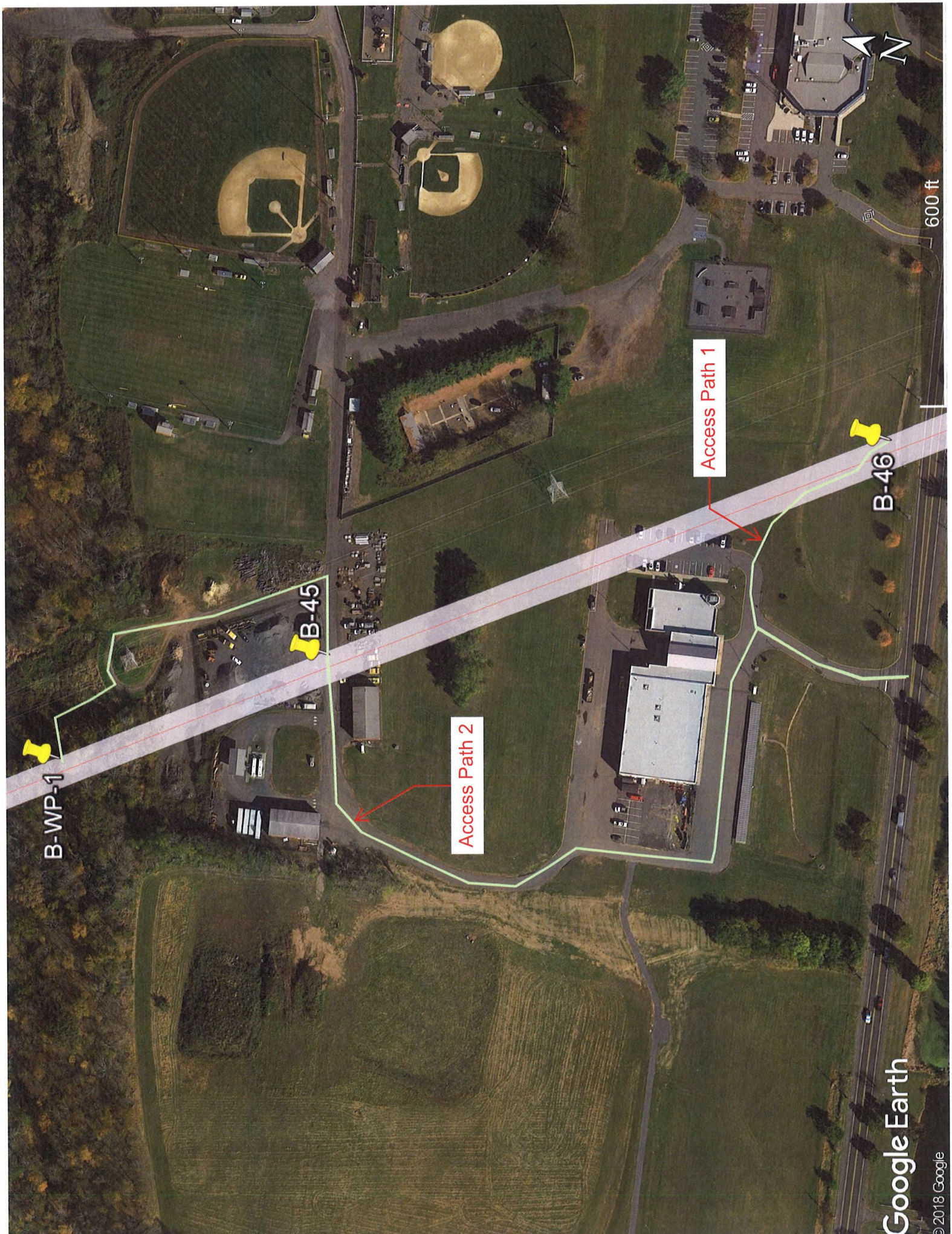
Figure 2 – CME-55 Rubber Track Soil Sampling Equipment



Figure 3 – Example Drill Rig Set Up



ATTACHMENT 1 - BORING LOCATION PLAN



Timothy P. Duggan

From: Philip Bishop <philip.bishop@westernls.com>
Sent: Monday, February 25, 2019 9:12 PM
To: Elaine Borges (eborges@hopewelltp.org); lmaloney@hopewelltp.org; wspringer@hopewelltp.org; Timothy Duggan
Cc: Jim South; Jeff Gale (jgale@athosgroup.com); Dan Murphy; Jonathan Nye; Bryn Michaels (michaelsb@ugicorp.com); jgraziano@archerlaw.com; PennEast Land
Subject: PennEast Pipeline - Hopewell Township - Survey activities - 2/26/2019
Attachments: PE-ME-037 - Hopewell Township Boring Locations.pdf

Good evening,

PennEast will be continuing with the geotechnical bores on the Hopewell Township parcel tomorrow, the map and NJ DEP well permit is attached. Please let me know that you have received this and if you have any questions, thank you.

County	State	Township	Last Name	First Name	Tax ID	Property Address
Mercer	NJ	Hopewell	Township of Hopewell		1106-92-5	203 Wash Cross Penn Road

Phil Bishop, RPL
Staff Landman



WESTERN LAND SERVICES

55 West Street
 Tunkhannock, PA 18657

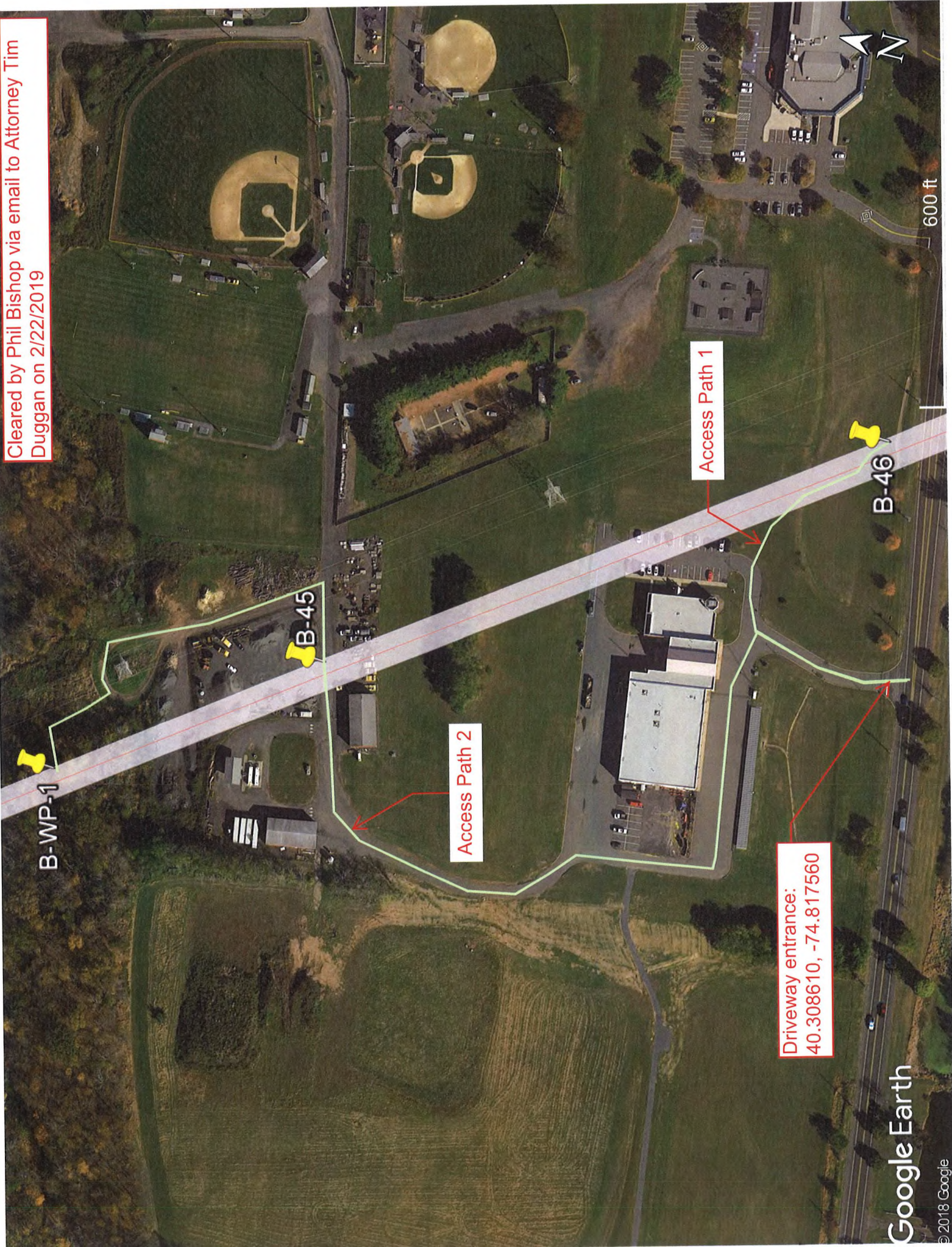
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Cleared by Phil Bishop via email to Attorney Tim Duggan on 2/22/2019



Driveway entrance:
40.308610, -74.817560

Access Path 1

Access Path 2

B-WP-1

B-45

B-46

Google Earth

© 2018 Google

EXHIBIT J

Timothy P. Duggan

From: Philip Bishop <philip.bishop@westernls.com>
Sent: Wednesday, April 17, 2019 1:52 PM
To: Julie Shelley; Timothy P. Duggan; 'Jacqueline Middleton'
Cc: Bryn Michaels (michaelsb@ugicorp.com); jgraziano@archerlaw.com; Jonathan Nye; PennEast Land
Subject: [EXTERNAL] RE: PennEast Pipeline - Survey notification - Week of 4/15
Attachments: LandTrustSite_STPcoverage_20190417.pdf

Ms. Shelley,

Attached is an overview map showing the locations of the test pits. If you have any questions please let me know, thank you.

Phil Bishop, RPL

Staff Landman

Cell (940).372.3851

Local (570).996.0442

Fax (570).996.2088

From: Julie Shelley [mailto:jshelley@njwsa.org]
Sent: Monday, April 15, 2019 9:22 AM
To: Philip Bishop <philip.bishop@westernls.com>; Timothy Duggan (tduggan@stark-stark.com) <tduggan@stark-stark.com>; 'Jacqueline Middleton' <Jacqueline@hunterdonlandtrust.org>
Cc: Bryn Michaels (michaelsb@ugicorp.com) <michaelsb@ugicorp.com>; jgraziano@archerlaw.com; Jonathan Nye <jonathan.nye@westernls.com>; PennEast Land <penneastland@ugies.com>
Subject: RE: PennEast Pipeline - Survey notification - Week of 4/15

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Phil,

Thank you for letting us know. At the conclusion of the work, can you please provide me with the final grid of STPs showing the exact location of each one?

Best,
Julie

From: Philip Bishop [mailto:philip.bishop@westernls.com]
Sent: Friday, April 12, 2019 3:18 PM
To: Timothy Duggan (tduggan@stark-stark.com); 'Jacqueline Middleton'; Julie Shelley
Cc: Bryn Michaels (michaelsb@ugicorp.com); jgraziano@archerlaw.com; Jonathan Nye; PennEast Land
Subject: PennEast Pipeline - Survey notification - Week of 4/15

All,
The PennEast archaeological survey team was unable to finish the excavations today and will need to return to the Hunterdon Land Trust parcels on Monday, 4/15, to finish their work. If you have any questions please let me know, thank you.

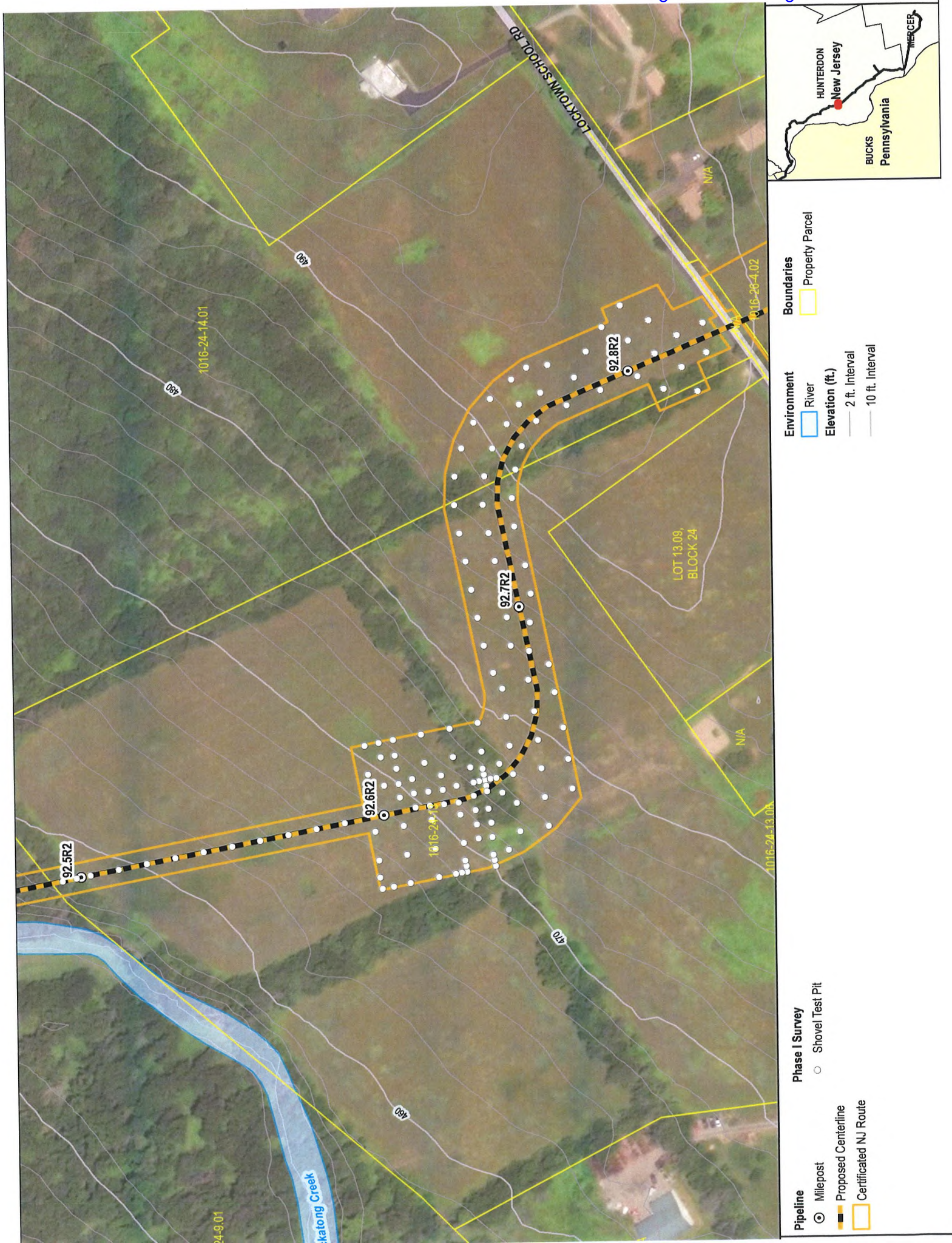


EXHIBIT K

Timothy P. Duggan

From: Philip Bishop <philip.bishop@westernls.com>
Sent: Thursday, February 28, 2019 8:41 AM
To: Timothy Duggan
Cc: Bryn Michaels (michaelsb@ugicorp.com); Dan Murphy; jgraziano@archerlaw.com; Jonathan Nye; PennEast Land
Subject: RE: PennEast Pipeline - Survey notification - Week of 3/4

Attorney Duggan,

Just a quick update for you. The PennEast archaeological survey crew was scheduled to access the Salata and Mountford properties this week but will need to push them to early next week. Please let me know if you have any questions, thank you.

Phil Bishop, RPL

Staff Landman

Cell (940).372.3851

Local (570).996.0442

Fax (570).996.2088

From: Philip Bishop
Sent: Tuesday, February 26, 2019 8:16 AM
To: Timothy Duggan (tduggan@stark-stark.com) <tduggan@stark-stark.com>
Cc: Bryn Michaels (michaelsb@ugicorp.com) <michaelsb@ugicorp.com>; Dan Murphy (Dan.Murphy@westernls.com) <Dan.Murphy@westernls.com>; jgraziano@archerlaw.com; Jonathan Nye (jonathan.nye@westernls.com) <jonathan.nye@westernls.com>; PennEast Land <penneastland@ugies.com>
Subject: PennEast Pipeline - Survey notification - Week of 3/4

Attorney Duggan,

PennEast will have an archaeological survey team on the parcels listed below starting next week. The One-Call mark out requests will be turned in today so the local utility company could begin doing the mark outs as soon as tomorrow. If you have any questions please let me know, thank you.

County	Township	State	Last Name	First Name	Tax ID
Mercer	Hopewell	NJ	Kelly	Edward J & Margaret M	1106-56-11
Mercer	Hopewell	NJ	Welsh	L Thomas Jr & Virginia L	1106-59-4
Mercer	Hopewell	NJ	Patricelli	Patricia	1106-62-2.02
Mercer	Hopewell	NJ	Patricelli	Patricia	1106-62-3

Mercer	Hopewell	NJ	Township Of Hopewell		1106-92-2.012
Mercer	Hopewell	NJ	Wen	Renze	1106-92-2.011
Mercer	Hopewell	NJ	Township Of Hopewell		1106-92-9
Mercer	Hopewell	NJ	Township Of Hopewell		1106-92-5
Mercer	Hopewell	NJ	Township Of Hopewell		1106-91-3.12
Mercer	Hopewell	NJ	Briehler	Michael T	1106-91-34
Mercer	Hopewell	NJ	Township Of Hopewell		1106-85-3
Mercer	Hopewell	NJ	Township Of Hopewell		1106-85-8

Phil Bishop, RPL
Staff Landman



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EXHIBIT L

Timothy P. Duggan

From: Philip Bishop <philip.bishop@westernls.com>
Sent: Friday, February 22, 2019 10:13 AM
To: Timothy Duggan
Cc: Bryn Michaels (michaelsb@ugicorp.com); Dan Murphy; jgraziano@archerlaw.com; Jonathan Nye; PennEast Land
Subject: RE: PennEast Pipeline - Survey notification - Week of 2/25

Attorney Duggan,

The PennEast **archaeological** and **wetlands survey** teams have several parcels that they were not able to get to this week and will need to access next week. I've also included additional properties that have been scheduled for next week as well, please see below. If you have any questions please let me know, thank you.

County	Township	State	Last Name	First Name	Tax ID
Hunterdon	Delaware	NJ	Hoff	Jay	1007-53-2.01
Hunterdon	Delaware	NJ	Hoff	Jay	1007-53-2
Hunterdon	Delaware	NJ	Lopshire	Howard C.	1007-54-5
Hunterdon	Delaware	NJ	Tucci	Valerie A	1007-54-10
Hunterdon	Delaware	NJ	Hoffman	Francis III and Dalia E	1007-54-5.02
Hunterdon	Kingwood	NJ	Pandy	Grace, William & Beth Ann	1016-12-32
Hunterdon	Kingwood	NJ	Kursinski	Anne	1016-13-7
Hunterdon	Kingwood	NJ	Ponter	Nancy E	1016-13-14.08
Hunterdon	Kingwood	NJ	Lamson	S. Jane	1016-26-3.01
Hunterdon	Kingwood	NJ	Lamson	S. Jane	1016-26-3.05
Hunterdon	Kingwood	NJ	Kager	Dennis L & Joan	1016-26-14.05

Hunterdon	Kingwood	NJ	Kager	Dennis L Sr & Tom Kager	1016-26-14.03
Hunterdon	Kingwood	NJ	Kager	Dennis L & Joan	1016-26-14.02
Hunterdon	Kingwood	NJ	Hastings & Leap	Corinne L & George Jr	1016-26-14
Hunterdon	Kingwood	NJ	Degrado	Vincent & Catherine	1016-26-16
Hunterdon	Kingwood	NJ	Markus	William E & Viola	1016-26-16.02
Hunterdon	Delaware	NJ	New Jersey Conservation Foundation		1007-32-4
Hunterdon	Deiaware	NJ	Buchanan	Joseph & Terese	1007-33-19
Hunterdon	Delaware	NJ	Gugliotta	Joseph L & Adele	1007-33-4.01
Hunterdon	Delaware	NJ	Hoff	Jay	1007-53-2.01
Hunterdon	Delaware	NJ	Hoff	Jay	1007-53-2
Hunterdon	Delaware	NJ	Tucci	Valerie A	1007-54-10
Hunterdon	Delaware	NJ	Hoffman	Francis III and Dalia E	1007-54-5.02
Hunterdon	Delaware	NJ	Switzler	Emma Angele Macy	1007-55-2
Hunterdon	Kingwood	NJ	Bydalek	Maureen	1016-6-17
Mercer	Hopewell	NJ	Township Of Hopewell		1106-92-9

Mercer	Hopewell	NJ	Township Of Hopewell		1106-92-5
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Phil Bishop, RPL*Staff Landman**Cell (940).372.3851**Local (570).996.0442**Fax (570).996.2088***From:** Philip Bishop**Sent:** Wednesday, February 20, 2019 9:41 AM**To:** Timothy Duggan (tduggan@stark-stark.com) <tduggan@stark-stark.com>**Cc:** Bryn Michaels (michaelsb@ugicorp.com) <michaelsb@ugicorp.com>; Dan Murphy (Dan.Murphy@westernls.com) <Dan.Murphy@westernls.com>; jgraziano@archerlaw.com; Jonathan Nye (jonathan.nye@westernls.com) <jonathan.nye@westernls.com>; PennEast Land <penneastland@ugies.com>**Subject:** RE: PennEast Pipeline - Survey notification - Week of 2/25

Attorney Duggan,

My apologies, these two parcels are on the list as well. Thank you.

Hunterdon	Delaware	NJ	Mcadam	John J & Kathleen A	1007-62-5
Hunterdon	West Amwell	NJ	Kilmer	Kim/karen/kyle & Joyce S	1026-8-14

Phil Bishop, RPL*Staff Landman**Cell (940).372.3851**Local (570).996.0442**Fax (570).996.2088***From:** Philip Bishop**Sent:** Wednesday, February 20, 2019 9:34 AM**To:** Timothy Duggan (tduggan@stark-stark.com) <tduggan@stark-stark.com>**Cc:** Bryn Michaels (michaelsb@ugicorp.com) <michaelsb@ugicorp.com>; Dan Murphy (Dan.Murphy@westernls.com) <Dan.Murphy@westernls.com>; jgraziano@archerlaw.com; Jonathan Nye (jonathan.nye@westernls.com) <jonathan.nye@westernls.com>; PennEast Land <penneastland@ugies.com>**Subject:** PennEast Pipeline - Survey notification - Week of 2/25

Attorney Duggan,

PennEast will be accessing the following properties next week for the archaeological surveys. The One-Call requests were turned in yesterday so the mark outs could be done anytime between today and the end of the week. If you have any questions please let me know, thank you.

County	Township	State	Last Name	First Name	Tax ID
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Hunterdon	Delaware	NJ	Switzler	Emma Angele Macy	1007-55-2
Hunterdon	Delaware	NJ	Switzler	Emma Angele Macy	1007-55-2.03
Hunterdon	Delaware	NJ	Dibianca	Vincent F	1007-55-3
Hunterdon	Delaware	NJ	Shafer	Jeffrey R & Mary Louise	1007-60-14
Hunterdon	Delaware	NJ	Patterson	Karyl	1007-62-2
Hunterdon	West Amwell	NJ	Magill	Robert R & Cynthia L	1026-3-15
Hunterdon	West Amwell	NJ	Salata	Gary E	1026-29-18.02
Hunterdon	West Amwell	NJ	Mountford	Robert C & Mary Anne	1026-26-11

Phil Bishop, RPL
Staff Landman



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EXHIBIT M

Timothy P. Duggan

From: Sadie Swan <Sadie.Swan@westernls.com>
Sent: Thursday, March 28, 2019 8:21 PM
To: 'Elaine Borges (eborges@hopewelltp.org)'; 'Imaloney@hopewelltp.org';
wspringer@hopewelltp.org; Timothy P. Duggan
Cc: 'Jim South'; 'Jeff Gale (jgale@athosgroup.com)'; Jonathan Nye; 'Bryn Michaels
(michaelsb@ugicorp.com)'; 'jgraziano@archerlaw.com'; 'PennEast Land'; Sadie Swan;
Philip Bishop
Subject: [EXTERNAL] PennEast Pipeline - Hopewell Township - Survey activities - 3/29/2019
Attachments: Hopewell NJ survey 68.PNG; Hopewell NJ survey 18.PNG; Hopewell NJ survey 47.PNG;
Hopewell NJ survey 48.PNG; Hopewell NJ survey 55.PNG

Good evening,

PennEast will have a wetland survey crew and a geotechnical drilling team in your area tomorrow and we have permission to be on the parcels in the work area. The maps are attached and work areas are outlined in blue. Please let me know that you have received this and if you have any questions, thank you.

County	State	Township	Last Name	First Name	Tax ID	Property Address
Mercer	NJ	Hopewell	Genon Rema LLC/Property Tax Dept.		1106-57-3	Valley Road
Mercer	NJ	Hopewell	Genon Rema LLC/Property Tax Dept.		1106-56-3	Valley Road
Mercer	NJ	Hopewell	Kelly	Edward J. & Margaret M.	1106-56-11	48 Valley Road
Mercer	NJ	Hopewell	Hicks	Casey & Kimberly Ann	1106-56-10	54 Valley Road
Mercer	NJ	Hopewell	Welsh	L. Thomas Welsh, Jr. & Virginia L.	1106-59-4	53 Valley Road
Mercer	NJ	Hopewell	Niederer	Thomas Otto & Wendy T.	1106-61-3.02	Pleasant Valley Road
Mercer	NJ	Hopewell	Niederer	Thomas Otto & Wendy T.	1106-61-5.01	1273 Bear Tavern Road
Mercer	NJ	Hopewell	Deer Valley Rlty Inc. C/O Crest Ultr		1106-91-5	Wash Cross Penn Road
Mercer	NJ	Hopewell	Briehler	Michael T.	1106-91-34	1655 Reed Road
Mercer	NJ	Hopewell	Smith	Constance E.	1106-91-9	1653 Reed Road

Sadie Swan, on behalf of

EXHIBIT N

Timothy P. Duggan

From: Philip Bishop <philip.bishop@westernls.com>
Sent: Wednesday, April 10, 2019 7:50 PM
To: 'Elaine Borges (eborges@hopewelltpw.org)'; 'lmaloney@hopewelltpw.org';
wspringer@hopewelltpw.org; Timothy P. Duggan
Cc: 'Jim South'; 'Jeff Gale (jgale@athosgroup.com)'; Jonathan Nye; 'Bryn Michaels
(michaelsb@ugicorp.com)'; 'jgraziano@archerlaw.com'; 'PennEast Land'; Sadie Swan
Subject: [EXTERNAL] PennEast Pipeline - Hopewell Township - Survey activities - 4/11/2019
Attachments: Hopewell NJ survey 18.PNG; Hopewell NJ survey 20.PNG; Hopewell NJ survey 48.PNG;
Hopewell NJ survey 52.PNG; Hopewell NJ survey 56.PNG; Hopewell NJ survey 57.PNG;
Hopewell NJ survey 62.PNG; Hopewell NJ survey 63.PNG; Hopewell NJ survey 11.PNG

Good evening,

Pursuant to our notice to you on 4/5/2019, we are giving you additional notice as to the specific date we will be entering your property in order that you may be fully informed as to PennEast's activities. PennEast will have a **wetland survey crew** and an **environmental survey crew** in your area tomorrow and we have permission to be on the parcels in the work area. The maps are attached and work areas are outlined in blue. Please let me know that you have received this and if you have any questions, thank you.

County	State	Township	Last Name	First Name	Tax ID	Property Address
Mercer	NJ	Hopewell	Genon Rema LLC/Property Tax Dept.		1106-57-3	Valley Road
Mercer	NJ	Hopewell	Genon Rema LLC/Property Tax Dept.		1106-56-3	Valley Road
Mercer	NJ	Hopewell	Hicks	Casey & Kimberly Ann	1106-56-10	54 Valley Road
Mercer	NJ	Hopewell	Welsh	L. Thomas Welsh, Jr. & Virginia L.	1106-59-4	53 Valley Road
Mercer	NJ	Hopewell	County of Mercer		1106-59-13.01	Valley Road
Mercer	NJ	Hopewell	Dale	Ronald B.	1106-59-7	87 Valley Road
Mercer	NJ	Hopewell	Township of Hopewell		1106-85-3	12 Washington Crossing-Pennington Road
Mercer	NJ	Hopewell	Township of Hopewell		1106-85-8	2501 Pennington Road
Mercer	NJ	Hopewell	Laurenti Holdings Co LLC		1106-85-5.01	2555 Pennington Road
Mercer	NJ	Hopewell	Transco Gas Pipeline/Ad Valorem Tax		1106-78-30	Route 31

Mercer	NJ	Hopewell	Wellington Manor Homeowners Association		1106-78-9.40	Buckingham Drive
Mercer	NJ	Hopewell	Transco Gas Pipeline/Ad Valorem Tax		1106-78-68	40 Blackwell Road
Mercer	NJ	Hopewell	Princeton Research Lands Inc.		1106-71-19.03	Blackwell & Penn Lawrence
Mercer	NJ	Hopewell	Princeton Research Lands		1106-72-11	31 Penn Lawrenceville Road
Mercer	NJ	Hopewell	Varhley	Loretta M.	1106-72-10.13	17 Benjamin Trail
Mercer	NJ	Hopewell	Pepperman	Lewis J. & Margherita	1106-72-10.14	14 Benjamin Trail

Phil Bishop, RPL
Staff Landman



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EXHIBIT O

Timothy P. Duggan

From: Philip Bishop <philip.bishop@westernls.com>
Sent: Monday, March 4, 2019 9:18 PM
To: Elaine Borges (eborges@hopewelltp.org); lmaloney@hopewelltp.org; wspringer@hopewelltp.org; Timothy Duggan
Cc: Jim South; Jeff Gale (jgale@athosgroup.com); Jonathan Nye; Bryn Michaels (michaelsb@ugicorp.com); jgraziano@archerlaw.com; PennEast Land
Subject: PennEast Pipeline - Hopewell Township - Survey activities - 3/5/2019
Attachments: Hopewell NJ survey 49.PNG; Hopewell NJ survey 47.PNG; Hopewell NJ survey 48.PNG; Hopewell NJ survey 51.PNG; Hopewell NJ survey 9.PNG; Hopewell NJ survey 18.PNG

Good evening,

This is a two-fold notification, both for work within the township and work on township property. PennEast will have a **field engineering team** conducting walkthroughs in your area tomorrow and we have permission to be on the parcels in the work area. The maps are attached and work areas are outlined in blue. Please let me know that you have received this and if you have any questions, thank you.

County	State	Township	Last Name	First Name	Tax ID	Property Address
Mercer	NJ	Hopewell	Genon Rema LLC/Property Tax Dept.		1106-57-3	Valley Road
Mercer	NJ	Hopewell	Hicks	Casey & Kimberly Ann	1106-56-10	54 Valley Road
Mercer	NJ	Hopewell	Welsh	L. Thomas Welsh, Jr. & Virginia L.	1106-59-4	53 Valley Road
Mercer	NJ	Hopewell	Niederer	Thomas Otto & Wendy T.	1106-61-3.02	Pleasant Valley Road
Mercer	NJ	Hopewell	Niederer	Thomas Otto & Wendy T.	1106-61-5.01	1273 Bear Tavern Road
Mercer	NJ	Hopewell	Patricelli	Patricia	1106-62-2.02	1286 Bear Tavern Road
Mercer	NJ	Hopewell	Batcha	Francis E. & Judith B.	1106-62-24	349 Penn Titusville Road
Mercer	NJ	Hopewell	Friends of Hopewell Valley Open Space		1106-92-1.01	Penn Titusville Road
Mercer	NJ	Hopewell	Township of Hopewell		1106-92-2.012	221 Wash Cross Penn Road